

REPRESENTATIVES FOR PETITIONER: LaMar O. Hochstetler, Advisor
Michael R. Stoltzfus, Treasurer

REPRESENTATIVE FOR RESPONDENT: Cathy S. Searcy, Elkhart County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

CRYSTAL SPRINGS SCHOOL, OLD)	Petition No.: 20-035-06-2-8-00001
ORDER AMISH CHURCH DISTRICT)	
61 & 61-2,)	
)	Elkhart County
Petitioner,)	
)	Middlebury Township
v.)	
)	Parcel No.: 20-08-26-126-009.000-034
ELKHART COUNTY PROPERTY TAX)	
ASSESSMENT BOARD OF APPEALS,)	Assessment Year: 2006
)	
Respondent.)	
)	
)	
)	

Appeal from the Final Determination of the
Elkhart County Property Tax Assessment Board of Appeals

January 7, 2008

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented in this case. The Board now enters its findings and conclusions of law.

Issue: The subject property is a one-room Amish school that was allowed 100% exemption on land and 89% exemption on improvements based on Ind. Code § 6-1.1-10-16. A “teacherage” (room where the teacher is permitted to sleep if he or she is unable to get home on a school night) constitutes the 11% of the square footage of the building that was denied. Does the teacherage also qualify for exemption?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Procedural History

1. Crystal Springs School, Old Order Amish Church District #61 and #61-2 (Petitioner) filed an Application for Property Tax Exemption (Form 136) for the 2006 assessment year on May 3, 2006. The Petitioner claimed 100% exemption for the entire property pursuant to Ind. Code § 6-1.1-10-16 based on educational use.
2. The Elkhart County Property Tax Assessment Board of Appeals (PTABOA) issued its determination on September 5, 2006. The PTABOA allowed 100 % exemption for land and personal property, but only allowed 89% exemption for improvements because “[t]he part of the building that is used for teacher’s living quarters is not exempt.”
3. Pursuant to Ind. Code § 6-1.1-11-7, the Petitioner filed a Petition for Review of Exemption (Form 132) on October 5, 2006. The Petitioner maintains that 100% of the property qualifies for the exemption.

Hearing Facts and Other Matters of Record

4. The subject property is an Amish school located on 2.97 acres at 59079 County Road 41 in Middlebury, Indiana.
5. Patti Kindler, the designated Administrative Law Judge, held the hearing in Goshen on October 16, 2007. She did not conduct an on-site inspection of the property.
6. The following persons testified at the hearing:
 - For the Petitioner – LaMar O. Hochstetler, Advisor, Crystal Springs,
Michael R. Stoltzfus, Treasurer, Crystal Springs,
 - For the Respondent – Cathy S. Searcy, Elkhart County Assessor and PTABOA
Secretary.

7. The following items are recognized as part of the record of proceedings:
 - Petitioner Exhibit 1 – Copy of the Form 132 Petition with grounds for appeals, the signed Articles of Agreement with the State of Indiana, the Form 120 Notice of Action on Exemption, and the Form 136 Application for Property Tax Exemption,
 - Respondent Exhibit 1 – PTABOA response to the appeal,
 - Board Exhibit A – Form 132 Petition with attachments,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing sign-in sheet,
 - Board Exhibit D – Order Regarding Conduct of Exemption Hearing.

8. Crystal Springs is a one-room Amish school. The Indiana Department of Public Instruction requires Amish schools to provide English language instruction in several specific subjects, which Crystal Springs does. The Amish do not personally drive cars. Teachers needed to satisfy state requirements do not always live near the school. This combination makes it difficult to staff particular teachers at the school. The teacherage remedies this situation by providing living quarters so the teacher does not have to travel home every night of the school year. Teachers pay no fee to use the living quarters and the school earns no income from that use. *Hochstetler testimony, Pet'r Ex. 1 at 6.*

9. A teacher might stay there a maximum of three nights per week. The living quarters are not used in the off-season, on Wednesdays or weekends, or when a teacher lives close to the school. *Hochstetler testimony.*

10. The area in question also serves other educational purposes such as storage, tutoring, and speech therapy. *Hochstetler testimony.*

11. The PTABOA denied 11% based on the square footage that was used for teacher housing. The Petitioner had not claimed to use the area for anything else *Searcy testimony; Resp't Ex. 1.*

The Petitioner's Contentions

12. The entire building, including the teacherage, is used 100% of the time for educational purposes.
13. The use of the teacherage is similar to the facts in the *State Bd. of Tax Comm'rs v. Int'l Business College, Inc.*, 251 N.E.2d 39 (Ind. Ct. App. 1969). In that case, the school used its building as a student dormitory and claimed it was 100% exempt. The county denied the exemption, but the court agreed that the dormitory was necessary and used exclusively to accomplish educational purposes. *Id.*
14. Permissible uses must necessarily embrace all uses that are proper and appropriate to effect the actions of the institution. A use that is incidental to the main purpose for which the property is held is not fatal to the exemption. *Int'l Business College; State Bd. of Tax Comm'rs v. Indianapolis Lodge*, 200 N.E.2d 221, 224 (Ind. 1964). The property is still completely exempt if uses are reasonably necessary for the effective welfare of the exempt institution. The teacherage allows the Petitioner to be fully staffed. It is not just reasonably necessary—it is absolutely necessary to carry out the purpose of the school. *Hochstetler testimony; Pet'r Ex. 1 at 6.*

The Respondent's Contentions

15. The Petitioner is responsible for making a prima facie case. The Petitioner presented no cases or statutes to show that living quarters for teachers qualify for exemption. The *Int'l Business College* case addressed exemption for student dormitories, not living quarters for instructors.

Analysis

16. As a general proposition, all tangible property in Indiana is subject to property taxation. Ind. Code § 6-1.1-2-1. The General Assembly may exempt any property used for municipal, educational, literary, scientific, religious, or charitable purposes. IND. CONST. Art. 10, § 1.
17. Property that is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes is allowed an exemption from property taxation by Ind. Code § 6-1.1-10-16(a). To qualify, the property must be predominantly used or occupied for one or more of the listed purposes. Ind. Code § 6-1.1-10-36.3. The determination of the use of the property applies separately to each part of the property. *Id.* Property that is predominantly used for an exempt purpose by a church, religious society, or not-for-profit school is totally exempt. Ind. Code § 6-1.1-10-36.3(c)(2).¹ Alternatively, property that is predominantly used for an exempt purpose by other persons or entities is exempt in proportion to the amount of time it was used for exempt purposes during the year that ends on the assessment date. Ind. Code § 6-1.1-10-36.3(c)(3). The Board’s analysis relies on this more general provision in (c)(3).
18. Taxpayers bear the burden of proving entitlement to tax exemptions. *State Bd. of Tax Comm’rs v. New Castle Lodge*, 765 N.E.2d 1257, 1259 (Ind. 2002). In this case, the parties do not dispute that predominate use of the property is for educational purposes. They only dispute the 11% of the subject building identified as the teacherage or teacher living quarters. The Petitioner has the burden to prove that part of the building qualifies to be included in the educational exemption.
19. The language in the exemption statute is necessarily general. The word “educational” is to be defined and understood in a broad constitutional sense. “Innocent collateral activities” that are essential to further exempt purposes do not preclude exemption.

¹ Neither party presented probative evidence regarding whether or not the Crystal Springs School is such an entity. Consequently, this case will not be determined based on subsection 36.3(c)(2).

Property that is “reasonably necessary” for the exempt use and purpose qualifies for the exemption. *See Le Sea Broadcasting Corp. v. State Bd. of Tax Comm’rs*, 525 N.E.2d 637, 638-639 (Ind. Tax Ct. 1988).

20. This kind of determination is particularly fact sensitive. Several factors support a conclusion that the Petitioner’s educational purpose is furthered by the teacherage. Amish do not personally drive cars and qualified teachers do not always live near the school. There was no dispute that providing the teacherage helps the school get qualified teachers by providing an alternative to traveling home every night. There was no dispute about the limited use as living quarters. Teachers who live nearby do not stay there. A teacher might stay there a maximum of three nights a week, but not on weekends, Wednesdays, or in the off-season. Furthermore, teachers pay no fee to stay there and the school earns no income from that use. Undisputed evidence also establishes that the room is used for school storage, tutoring sessions, and speech therapy sessions. These uses clearly are educational. The Petitioner has demonstrated specific facts that establish the teacherage is reasonably necessary to further its educational purpose. Thus, it established a substantial case for 100% exemption, including the teacherage.
21. The Respondent did not dispute any of the facts the Petitioner presented, but simply reaches a different conclusion from those facts. The Respondent’s rebuttal focused on the Petitioner’s purported failure to show any case law, statutory provisions, or Board final determinations granting property tax exemption for living quarters. The Respondent maintains that the disputed area does not qualify for property tax exemption because it is predominately used as living quarters. The Respondent is incorrect.
22. In *State Bd. of Tax Comm’rs v. Wright*, 215 N.E.2d 57 (Ind. App. 1966), the court considered the question whether cabins owned and used by a church qualified for 100% property tax exemption. A church owned cabins that provided temporary housing for attendees during church conferences. Because the exclusive use of the cabins was necessary to further the church’s exempt purposes, that court found the cabins qualified for exemption. *Id.* at 63.

23. Living quarters used in the furtherance of an exempt purpose are not precluded from exemption. The Respondent's position that the teacherage does not qualify for exemption simply because it predominantly is used as teacher living quarters is wrong.

Summary of Final Determination

24. The undisputed evidence supports the exemption claim. The improvements must be changed to 100% exempt.

The Final Determination of the above captioned matter is issued this by the Indiana Board of Tax Review on the date written above.

Commissioner, Indiana Board of Tax Review

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>